IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 4228 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

@

ANANTRAI MOHANLAL MEHTA

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 4228 of 2000

MR YOGESH S LAKHANI for Petitioner No. 1

Mr V M Pancholi, APP for Respondent No. 1

RULE SERVED for Respondent No. 2-3

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 05/04/2002

ORAL JUDGEMENT

This is an application filed under section 482 of the Code of Criminal Proacedure, 1973 for quashing a FIR being C.R. No.104/96 before the Porbandar City Police Station for offences punishable under sections 191, 192,

193 and other offences.

2. It has been alleged against the present petitioner and other accused persons named in the FIR that these accused persons forged some documents and got some false entries in the city survey recorded and committed the aforesaid offence. The petitioner contests that before institution of the aforesaid FIR, one Ramnikbhai Vallabhdas Madhavani had filed FIR being CR.No.46/96 before the said Police station for the same offence containing the same set of facts. It is, therefore, contended that the petitioner cannot be dealt with or prosecuted twice for the same set of facts. It is, therefore, contended that when a first FIR was filed, the second FIR is required to be quashed.

3. Rule was issued and in response to the service of rule, Mr V M Pancholi, learned APP appears for respondent no.1-State of Gujarat as well as for the Police Inspector, LCB Police Station whereas respondent no.2, though served, has not opted to appear before the Court. I have heard the learned Advocates for the parties and have perused the papers. On a perusal of the two FIRs being C.R. No.46/96 and C.R. No.104/96, it clearly transpires that both of them contains some set of facts and allegations, though the informants are different. In C.R. No.46/96, the informant is Ramanik Vallabhdas whereas in C.R. No.104/96, the informant is B J Saresa, Office of City Survey Office, Porbandar. However, when the two FIRs contained same set of facts and even the charge sheet has also been filed and they also carried the same set of facts, it would not be just, legal or proper to permit prosecution of the petitioner twice for the same set of facts and allegations. In that view of the matter, the second FIR being C.R. No.104/96 which has been culminated in charge sheet No.28/99 which has been registered as Criminal Case No.4005/99 is required to be quashed and set aside qua the petitioner. So far as rest of the accused are concerned, they are not before the Court and, therefore, the court concerned will naturally deal with the case against them in accordance with law.

4. For the foregoing reasons, this application is allowed. The FIR being C.R. No.104/96 culminated in charge sheet No.28/99 which has been registered as C.C. No.4005/99 before the learned Judicial Magistrate First Class, Porbandar is ordered to be quashed and set aside qua the petitioner only. It would be open to the Court ocncerned to proceed ahead with respect to the remaining accused persons in accordance with law. Rule is made

absolute to the aforesaid extent. Direct Service permitted.

5.4.2002 [D P Buch, J.]
msp